

**REMARKS**

This paper is presented in response to the non-final official action dated May 23, 2008, wherein (a) claims 1-3 and 5-16 were pending, (b) claims 5 and 6 were objected to, (c) claims 1, 5, 7-10, and 13-16 were rejected as anticipated by Lochmiller US 4,383,609 ("Lochmiller"), (d) claims 2, 3, 11, and 12 were rejected as obvious over Lochmiller in view of Barnes, et al. US 3,968,895 ("Barnes"), and (e) claim 6 was rejected as obvious over Lochmiller in view of Govang, et al. US 4,877,137 ("Govang").

By the foregoing, claims 1, 5, 6, and 7 have been amended, claim 14 has been canceled, and new claims 17-19 have been added.

In amended claim 1, a non-essential feature ("a cover for the open top and the internal space) originally recited in (d) is deleted, and a new added feature (a "pallet with a planar and solid top onto which the sidewalls with different numbers of sidewalls can be placed") is added. Support is found at page 4, lines 32 and 33 and at page 3, line 20 of the original description.

Support for amended claim 7 is found on page 4, line 33 – page 5 line 1 of the original description.

Support for new claim 1 is found at page 1, line 33 to page 2, line 1; page 3 line 26-28; and page 7, line 10 of the original description.

Support for new claim 18 is found at page 7, claim 1, features (a)-(c) and (e). Since the sidewalls are not fixed to the pallet, the sidewalls can be commercialized independently to the container comprising also the pallet. The feature "and the height of each perforated line above the edge of the base is set to conform with industrial standards for freight or transportation boxes" is disclosed on page 4, lines 9-11 of the original description.

Support for new claim 19 is disclosed on page 4; lines 23-26.

As a result of the foregoing, claims 1-3, 5-13, and 15-19 are pending.

Reconsideration of the application, as amended, is solicited.

The issues raised in the action are addressed below in the order appearing in the action.

***Claim Objections***

Claims 5 and 6 have been amended to address the basis for objection, and reconsideration and withdrawal of the objection to those claims is therefore solicited.

***Anticipation***

The anticipation rejection of claims 1, 5, 7-9, and 13-16 based on Lochmiller is respectfully traversed; reconsideration is solicited.)

Lochmiller discloses a multi-piece container which locks together (see Lochmiller, abstract). The container comprises a side-wall locking section 20 bent into a U-shape and attached to the pallet as shown in Figs. 6-8 (see Locmiller, pages 2 and 3). The side pallet locking flaps 31 are placed beneath the locking section 17 and the central pallet locking flap 30 is placed on top of the locking section (see Lochmiller, , column 2, lines 4-11). The side-wall locking section 20 is fixed to the legs 11 and therefore is part of the pallet 10 (see Lochmiller, column 1, lines 45-55). The side-wall locking section 20 as part of the pallet 10 leads to a non-planar top, using the analogous language of the present application. Additionally, the side-wall blank 40 of Lochmiller (which corresponds to the three sidewalls 24 of the present application) is telescoped over the rectangular side-wall locking members 20 as shown in the corresponding Figs. 6-10 (see Lochmiller, pages 2-4) and therefore locks the side-walls 40 to the pallet (see Lochmiller, column 2, lines 26-33). The shape of the side-wall 40 is predetermined by the shape of the side-wall locking member 20. The corresponding pallet 10 is only usable together with special side-walls having carefully adapted shapes to this special side-wall locking member. The container of Lochmiller does not offer the possibility of using different sidewalls exhibiting different shapes and numbers of sidewalls, e.g. three sidewalls defining a

triangular shaped base as well as four sidewalls defining a squared shaped base, five sidewalls defining a pentagonal shaped base etc. as possible with the present invention (see page 3, lines 17 – 24, original description) on one and the same pallet for all different sidewalls.

Therefore, Lochmiller does not disclose the limitation “a pallet with a planar and solid top onto which the sidewalls with different numbers of sidewalls can be placed” as recited in amended claim 1..

Neither Barnes nor Govang discloses the limitations (b)-(e) of amended claim 1.

New claim 18 further differs from Lochmiller by recitation of the feature “the height of each perforated line above the edge of the base is set to conform with industrial standards for freight or transportation boxes.” In Lochmiller, the perforated lines 56 and 64 of the side-wall blank 40 are used to bend the lower locking flaps inwardly of the side-walls to lock the side-wall member to the side-wall locking members 20 of the pallet 10 and not to vary the height of the side-wall blank 40. Also, the upper horizontal score line 56 is not used to vary the height of the container, but by being adhered to the cover element (see Lochmiller, column 2, lines 24-36). Therefore claim 18 is new against Lochmiller

The same holds true for Barnes and Govang, where no perforated line at the side-walls is disclosed in order to vary the height of the container.

Therefore, it is submitted that amended claim 1, dependent claims 5, 7-9, and 13-16, and new claims 17-19 are novel in view of Lochmiller. An indication to that effect and withdrawal of the outstanding anticipation rejection are solicited.

### ***Obviousness***

Even if Lochmiller is considered to be the closest prior art to the present invention, the claims are distinguishable from Lochmiller at least due to the limitation “a pallet with a planar and solid top onto which the sidewalls with different numbers of sidewalls can be placed” in all claims by virtue of that limitation’s recitation in claim 1. One corresponding advantageous effect of this distinguishing feature, as

disclosed on page 3, lines 17-24, is that containers can be used, where the storage area can be adapted to the preferred shape.

Additionally the risk of slippage during transport is reduced, because the transported products are placed on a planar and solid top of the pallet (page 5, lines 15-17 original description). A planar top offers full contact of product surface to the top surface with the highest friction and therefore lowest risk of slippage.

The corresponding object would be to provide a container, where the storage area can be adapted to the preferred shape and the risk of slippage is reduced.

Lochmiller discloses no hint how to modify its subject in order to provide a container according to the invention. Lochmiller's container is a locking container. The skilled artisan following Lochmiller's teachings would not remove the disclosed side-wall locking section 20, because the lower locking flaps 60-63 of the side-wall blank 40 lock beneath the flange formed by locking section 34 and 35 on the locking member 20 as shown in Figs. 8 and 10. This structure locks the side-walls to the pallet through the side-wall locking member (see column 2, lines 24-33) and provides an essential feature of the locking container comprising side-wall locking section 20 further prevents slippage of the side-walls of the container and therefore also slippage of the content down from the pallet. The disclosure of Lochmiller will lead the skilled reader away from the present invention, because one would not be lead to modify the storage area of the container by bending/not bending the top flaps 52-55 at the upper horizontal score line 56, to which the cover element is later adhered (see Lochmiller, column 2, lines 34-36) and keeping the side-wall locking section 20 with blocking walls 32 and 33 as part of the pallet 10 to keep a risk reduction of slippage of the container content.

Barnes discloses a rectangular air cargo shipping container with vertical panels secured together and secured to the base. Govang discloses a pallet to support the load (here package modules) comprising vertical corner posts to unify, stabilize, and protect the load (column 4, lines 51-62), which are fixed the pallet by an overall plastic material covering 26. Neither of these secondary references discloses or suggests how to modify the subject of Lochmiller to arrive at a container

according to amended claim 1, the limitations of which are incorporated in rejected claims 2, 3, 6, 11, and 12, and in new claims 16-19.

New claim 18 further differs from Lochmiller at least in view of the limitation "the height of each perforated line above the edge of the base is set to conform with industrial standards for freight or transportation boxes." The effect of this feature is to enable the use of a single standardized container that customize the needs of different load and height requirements of objects to be stored and transported (see page 4, lines 23-26).

The corresponding result from this effect is to provide a single standardized container that customizes the needs of different load and height requirements of objects to be stored and transported.

None of Lochmiller, Barnes, and Govang disclose or suggest to modify the side-walls in such a way to arrive at with the subject of new claim 18.

***Conclusion***

For all th foregoing reasons, it is submitted that all claims 1-3, 5-13, and 15-19 are of proper form and scope for allowance, and such action is solicited.

Should the examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, he is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

By 

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